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The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper No. 133

Filed by: Trial Section Motions Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed December 7, 2001

MAILED

DEC 7 - 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER,

Junior Party,
(Application 08/278,601)

v.

STEPHEN CHARLES INGLIS, MICHAEL EDWARD GRIFFITH BOURSNELL
and ANTHONY CHARLES MINSON,

Senior Party,
(Patents 5,665,362 and 5,837,261)

Patent Interference No. 104,363

Before: McKELVEY, Senior Administrative Patent Judge, and
SCHAFFER and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Junior party Knipe has filed a paper "[p]ursuant to 37 C.F.R. 1.662" (Paper 131)
abandoning "the contest now existing in Interference No. 104,363, including Count 2

thereof (as set forth in the "ORDER REDECLARING INTERFERENCE issued by the Board of Patent Appeals and Interferences and dated May 18, 2001)." Accordingly, it is

ORDERED that judgment on priority as to the subject matter of Count 2 (Paper 108, p. 2) is awarded against the junior party, DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER;

FURTHER ORDERED that junior party, DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER, is not entitled to a patent containing claims 1-9, 25-27, 29, 32-35, 37-40 and 42-49 (corresponding to Count 2) of Application 08/278,601;

FURTHER ORDERED that a copy of this judgment be made of record in Application 08/278,601 and the file of Patents 5,665,362 and 5,837,261; and

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

m.g.K

FRED E. McKELVEY, Senior
Administrative Patent Judge

Richard E. Schaffer
RICHARD E. SCHAFER
Administrative Patent Judge

Carol A. Spiegel
CAROL A. SPIEGEL
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

Interference No. 104,300
Inglis v. Knife



Paper 133
Page 3

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Communications respecting this case should identify it by number and names of parties.



UNITED STATES DEPARTMENT OF COMMERCE
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INTERFERENCE NO. 104,363

INGLIS, ET AL.

v.

KNIFE, ET AL.

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The copy of the agreement under 35 U.S.C. § 135(c) filed by Inglis, et al. on December 3, 2001 is acknowledged. Pursuant to his request, this agreement will be kept separate from the file of the interference as provided in the statute

rd

Wanda Tigner

Wanda Tigner, Supervisory
Legal Instrument Examiner
Board of Patent Appeals &
Interferences
(703) 308-9797

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The opinion in support of the decision being entered today is not binding precedent of the Board.

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Paper No. 108

Filed by: Trial Section Motions Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed May 18, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

STEPHEN CHARLES INGLIS, MICHAEL EDWARD GRIFFITH BOURSNELL
and ANTHONY CHARLES MINSON,

MAILED

Junior Party,
(Patents 5,665,362 and 5,837,261)

MAY 18 2001

v.

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER,

Senior Party,
(Application 08/278,601)

Patent Interference No. 104,363

ORDER REDECLARING INTERFERENCE
(37 CFR § 1.611)

In view of the decision on preliminary and other miscellaneous motions (Paper
107), it is

ORDERED that the interference is redeclared as follows:

1. The following new Count 2 is substituted for Count 1¹ (material deleted from Count 1 shown in strikeout and material added to Count 1 shown in **bold**):

Count 2

A composition according to claim 1 of Inglis '261 or any of claims 1 or 24 of Inglis '362 or ~~any of claims 1, 5, 9, 25, 42-45~~ **claim 49** of Knipe

or

a method according to any of claims 20, 24 or 41 of Inglis '261 or claim 13 of Inglis '361 or any of claims ~~12, 17, 18, 32, or 37~~ **35 or 40** of Knipe.

A clean copy of Count 2 reads as follows:

Count 2

A composition according to claim 1 of Inglis '261 or any of claims 1 or 24 of Inglis '362 or claim 49 of Knipe

or

a method according to any of claims 20, 24 or 41 of Inglis '261 or claim 13 of Inglis '362 or any of claims 35 or 40 of Knipe.

¹ Count 1 is reproduced at Paper 1, p. 48.

2. The claims of the parties are:

Inglis '261: 1-41

Inglis '362: 1-24

Knipe: 1-9, 12-22, 25-27, 29, 31-49²

3. The claims of the parties that correspond to Count 2 are:

Inglis '261: 1-41

Inglis '362: 1-24

Knipe: 1-9, 25-27, 29, 32-35, 37-40 and 42-49³

4. The claims of the parties that do not correspond to Count 2, and therefore are not involved in the interference on the issue of priority, are:

Inglis '261: None

Inglis '362: None

Knipe: 12-22, 31, 36 and 41

5. Inglis '261 is accorded benefit for the purpose of priority as to Count 2 of:

(1) U.S. application 08/168,643, filed December 16, 1993,

(3) U.S. application 08/030,073, filed May 20, 1993,

(6) PCT application PCT/GB91/01632, filed September 23, 1991,

(7) British application 9104903.01, filed March 8, 1991,

(8) British application 9020799.4, filed September 25, 1990,

² The examiner has indicated that Knipe claims 46 and 49 are unpatentable.

³ Knipe claims 1-9, 12-15, 17-21, 25-27, 29, 32-34, 36-39 and 41-48 have been held unpatentable. See Paper 106.

- (2) British application 9324964.7, filed December 6, 1993,
- (4) British application 9305710.7, filed March 19, 1993,
- (5) British application 9226172.6, filed December 16, 1992.

6. Inglis '362 is accorded benefit for the purpose of priority as to Count 2 of

- (1) U.S. application 08/030,073, filed May 20, 1993,
- (2) PCT application PCT/GB91/01632, filed September 23, 1991,
- (3) British application 9104903.01, filed March 8, 1991 and
- (4) British application 9020799.4, filed September 25, 1990.

7. Knipe is accorded benefit for the purpose of priority as to Count 2 of

- (1) U.S. application 08/179,106, filed January 10, 1994 and
- (2) U.S. application 07/922,912, filed July 31, 1992.

8. Since the priority benefit date of Inglis (September 25, 1990) is earlier than the priority benefit date of Knipe (July 31, 1992), the order of the parties is reversed thereby making Inglis senior party.

FURTHER ORDERED that, to the extent applicable, the procedures set forth in the attached STANDING ORDER are in effect for the remainder of the interference.

FURTHER ORDERED that the caption of papers filed in the remainder of the interference shall be the caption as set forth in the appendix to this ORDER.

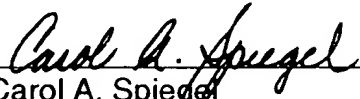
FURTHER ORDERED that within **14 (fourteen) days** of the date of this ORDER, each party shall either: (1) file a statement indicating that it is relying on the preliminary

Interference No. 104,363
Inglis v. Knipe

statement it has already filed in the interference for the subject matter of Count 2 or
(2) file a new preliminary statement for the subject matter of Count 2.

FURTHER ORDERED that a conference call is scheduled for **May 25, 2001 at 10:00 am** to set times for taking action during the priority phase of the interferences.

The call will be initiated by the PTO.


Carol A. Spiegel
Administrative Patent Judge

Date: May 18, 2001
Arlington, VA

Enc: Copy of STANDING ORDER

Interference No. 104,363
Inglis v. Knipe

APPENDIX

Paper No. _____

Filed on behalf of: Party
By:

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Name of backup counsel, Esq.
Street address
City, State, and Zip-Code
Tel:
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE
(Administrative Patent Judge Carol A. Spiegel)

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER,

Junior Party,
(Application 08/278,601)

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STEPHEN CHARLES INGLIS, MICHAEL EDWARD GRIFFITH BOURSNEILL
and ANTHONY CHARLES MINSON,

Senior Party,
(Patents 5,665,362 and 5,837,261)

Patent Interference No. 104,363

TITLE OF PAPER

Interference No. 104,363
Inglis v. Knipe

104,363
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